

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ARLON KEITH SMITH,

Defendant-Appellee.

UNPUBLISHED

July 29, 1997

No. 197650

Wayne Circuit Court

LC No. 96-502264

Before: Jansen, P.J., and Wahls and P.R. Joslyn*, JJ.

MEMORANDUM.

The Wayne County Prosecutor appeals by right an order of the Wayne Circuit Court, quashing the information which charges defendant with unarmed robbery. The circuit court, after reviewing the evidence adduced at preliminary examination, concluded that the evidence only established shoplifting (retail fraud) and assault and battery. We reverse.

The evidence at preliminary examination indicated that defendant, when approached by a security guard at the store where the theft occurred, pushed the security guard aside in order to leave the store with the stolen merchandise. Where force is purposefully inflicted to insure the complainant's loss of possession, unarmed robbery is established. *People v LeFlore*, 96 Mich App 557, 563; 293 NW2d 628 (1980), after remand 122 Mich App 314, 319-320; 333 NW2d 47 (1983). There was no abuse of discretion by the examining magistrate in binding defendant over for trial on a charge of unarmed robbery on this record.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Kathleen Jansen

/s/ Myron H. Wahls

/s/ Patrick R. Joslyn

* Circuit judge, sitting on the Court of Appeals by assignment.